

**IN THE APPEAL COMMITTEE OF THE COUNCIL FOR MEDICAL
SCHEMES**

In the matter between:

CJ

Appellant

and

DISCOVERY MEDICAL SCHEME

Respondent

RULING

- [1] Mr CJ, who is the primary member of Discovery Medical Scheme (“the scheme”), is aggrieved that the scheme refuses to fund a surgical procedure on his minor son, IJ (“IJ”), who is a dependant member. The scheme says the procedure is cosmetic, by which it means the procedure would not improve the functionality of IJ’s heart and/or lungs.
- [2] IJ has been diagnosed with *pectus excavatum*. The evidence was that this is a developmental anomaly in which the posterior of the lower *sternum* is displaced and concavely deformed, resulting in a funnel-shaped thorax. Mr CJ had consulted a Neurosurgeon, Doctor S, who found that IJ had developed an abnormal posture and that, if the *pectus excavatum* condition was not urgently

repaired, he would later develop secondary pathology by reason of a deformity in his spinal column. A Cardiothoracic Surgeon (Doctor B) to whom IJ was referred, was concerned, among other things, about the onset of pain and discomfort that he would endure especially during years of fast growth, such as puberty stage. He also pointed to the self-awareness and psychological problems that people with this condition tend to develop.

- [3] When Mr CJ sought approval for the surgical intervention from the scheme, this was declined on the ground that he failed to show that in this case there was evidence of any cardiac and/or respiratory impairment that would require such an intervention. Evidence of such impairment is required in terms of the scheme's clinical protocols pursuant to the provisions of regulation 15D of the Medical Schemes Act, 131 of 1998 ("the MSA"). For that reason, the scheme was at pains to point out that it would review its decision when such evidence is submitted to it.
- [4] A complaint was then lodged with the Registrar against the scheme's decision. The Registrar agreed with the scheme, hence this appeal.
- [5] Mr P, in his able representation of Mr CJ, submitted that such evidence (in the form of Doctor V's report, a Cardiothoracic Surgeon, dated 18 February 2008) had been forwarded to the Registrar's office some time ago on the understanding that it would be forwarded to the scheme. This did not happen. Mr Krawitz for the scheme indicated that he received the Verschave report

only moments before commencement of the appeal hearing and so the scheme would not have had time to consider it.

[6] Mr Krawitz, it must be said reasonably, indicated that the scheme would be prepared to fund the cost of any tests that it might require IJ to undergo with a view to ascertaining whether or not the surgical procedure fits its clinical protocols. In any event, the usual practice in insurance claims is that the insurer would fund the cost of any medical examination it may require a claimant to undergo in its assessment of the claim. We can find no reason why that principle should not apply in this case.

[7] It is thus the decision of this appeal committee that the appeal cannot succeed. The scheme has indicated the types of tests that IJ should undergo in order to ascertain whether or not the surgical intervention is indeed clinically justified. It is now incumbent upon IJ to do so. The scheme is to bear the costs of those tests.

V NGALWANA for the appeal committee

Date of Hearing: 08 May 2008

Date of Ruling: 22 May 2008